

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

United States of America

Plaintiff,

v.

Civil No. 13-1223-JDB-egb

One (1) Bryco Arms 380 Pistol,
Serial #1029401,

Two Thousand Seven Hundred
Twenty-Six Dollars (\$2,726.00)
in United States Currency,

Defendants.

MOTION TO DISMISS CLAIM FOR WANT OF PROSECUTION

COMES NOW the United States of America, by and through Edward L. Stanton III, United States Attorney, and Christopher E. Cotten, Assistant United States Attorney for the Western District of Tennessee, and respectfully moves that this Honorable Court dismiss the claim and answer of James Nolen and Susan Nolen (“claimants”) for want of prosecution. In support of this motion, the United States would show the following:

1. Claimants filed a joint answer in the above-styled case on January 30, 2014. (R.E. #24: Answer). The verified claim of James Nolen was attached as an exhibit.
2. Following a scheduling conference, the United States propounded discovery requests to both claimants.
3. On June 16, 2014, the government received a letter from claimants’ counsel (copy

attached as Exhibit A) stating that, “My clients have advised me to discontinue their contest of the seizure of the above-referenced property.”

4. Fed. R. Civ. P. 41(b) permits the Court to dismiss any claim for want of prosecution by the plaintiff. Fed. R. Civ. P. 41(c) extends the rule to third-party claims.

5. As it appears that the claimants no longer wish to contest the forfeiture of the defendant property, the government requests that their claim and answer be dismissed for want of prosecution under this rule. Following such dismissal, the United States will request default against the interests of all other potential claimants.

6. Undersigned counsel certifies that he has consulted with Mr. Scott G. Kirk, attorney for the claimants, who does not object to this motion.

CONCLUSION

For the foregoing reasons, the United States respectfully requests that the claim and answer in the above-styled case be dismissed for want of prosecution.

Respectfully submitted,

EDWARD L. STANTON III
United States Attorney

By: /s Christopher E. Cotten
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CERTIFICATE OF SERVICE

I, Christopher E. Cotten, Assistant United States Attorney for the Western District of Tennessee, do hereby certify that a copy of the foregoing motion has been sent, via the Court's electronic filing system, to Mr. Scott G. Kirk, attorney for the claimants.

This 19th day of June, 2014.

/s Christopher E. Cotten
CHRISTOPHER E. COTTEN
Assistant United States Attorney